IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

THURSDAY, THE 24TH MAY 2007 / 3RD JYAISHTA 1929

MFA.No. 863 of 1996

OPMV.2140/1993 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PUNALUR
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APPELLANT/PETITIONER:

ANNAMMA, WIFE OF MATHEW, VAZHOTTU VEEDU,
VADAKODU, KURA P.O., KOTTARAKKARA.

BY ADV. ANCHAL C. VIJAYAN

RESPONDENTS/RESPONDENTS:
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1. B. GOPALAKRISHNA PILLAI, S/O.BHARGAVAN PILLAI,
S.G. COTTAGE, MYKLOM P.O., KOTTARAKKARA.

2. SREEKUMAR, S/O. KRISHNA PILLAI, KUTTANA VEEDU,
MYLOM P.O., KOTTARAKKARA.

3. M/S. ORIENTAL INSURANCE COMPANY LIMITED,
KOTTARAKKARA.

R3 BY ADVOCATE SHRI MATHEWS JACOB

BY ADV. SRI.P.JACOB MATHEW

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 24/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B. KOSHY and K.P.BALACHANDRAN, JJ.

M.F.A.No. 863 of 1996

Dated this the 24th day of May, 2007

Judgment

Koshy, J.

Appellant in this case is the claimant in O.P. (MV) No.2140 of 1993 on the file of the Motor Accidents Claim Tribunal, Punalur. The first and second respondents respectively are the owner and rider of the scooter bearing Registration No.KL 2A/3394 involved in the accident. The third respondent is the insurer of the vehicle as on the date of accident. The case of the appellant is that on 11.10.1993 at about 9.30 a.m. the appellant was walking through the Kizhakketheruvu - Pathanapuram public road from north to south direction. While so, second respondent driving scooter bearing registration No.KL 2A/3394 from south to north direction hit down the appellant and the petitioner sustained serious injuries including fracture of greater trochanter of right femur and appellant was treated as an inpatient at the Government Hospital, Kottarakkara till 30.10.1993. From 25.12.1993 to 20.6.1994 appellant was undergoing ayurvedic treatment. Appellant was earning Rs.40/- per

day from her tea shop business. Due to the injuries sustained in the accident, appellant is having 16% permanent partial disability. Appellant claimed Rs.75,000/- as compensation from the respondents. The tribunal found that the accident occurred due to the negligence of the driver of the vehicle insured by the third respondent insurance company. However, the tribunal awarded only Rs.16,323/- as compensation. Only quantum of compensation is disputed in this appeal.

2. According to the appellant, considering the medical certificate, the Tribunal has accepted that appellant has suffered 16% disability. Ext.A7 disability certificate issued by the Medical Board, Kollam also shows 16% disability. The tribunal held that the appellant, being a house wife, is not entitled to get any compensation for loss of earning power or disability. However, Rs.3,240/- was granted under these two heads. Only quantum of compensation is disputed in this appeal.

3. A three-member Bench of the Supreme Court in Lata Wadhwa and others v. State of Bihar and others (AIR 2001 SC 3218) held that services done by a house wife is not valueless and Rs.3,000/- can be assessed as the notional income for house wives aged 34 to 59. Here,

the accident occurred on 11.10.1993. Considering the social status of the appellant, we fix Rs.15,000/- as the notional income taking clue from the second schedule. Considering the age of the claimant, 11 can be the multiplier. If that be so, compensation payable will be Rs.15000 x $\frac{16}{100}$ x 11 = 26,400/-. Deducting Rs.3,240/- the compensation payable for loss of earning capacity etc. is Rs.23,160/-. The amount awarded under other heads are just and reasonable. The additional amount of Rs.23,160/- should be deposited by the third respondent insurance company within three months from the date of receipt of a copy of this judgment with 9% interest from the date of application till its deposit. Since the accident occurred in 1993, appellant will be entitled to withdraw the amount on deposit.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

vaa

J.B. KOSHY AND
K.P.BALACHANDRAN, JJ.

M.F.A. NO.863/96

JUDGMENT

Dated:24th May, 2007